

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2646
OFFERED BY MRS. BROOKS OF INDIANA AND MR.
SARBANES OF MARYLAND**

Add at the appropriate place the following:

1 **SEC. 5___.** **EXTENSION AND EXPANSION OF MEDICAID**
2 **EMERGENCY PSYCHIATRIC DEMONSTRATION**
3 **PROJECT.**

4 (a) **IN GENERAL.**—Subsection (d) of section 2707 of
5 Public Law 111–148 (42 U.S.C. 1396a note) is amended
6 to read as follows:

7 “(d) **LENGTH OF DEMONSTRATION PROJECT.**—

8 “(1) **IN GENERAL.**—Except as provided in para-
9 graphs (2) and (3), the demonstration project estab-
10 lished under this section shall be conducted for a pe-
11 riod of 3 consecutive years.

12 “(2) **TEMPORARY EXTENSION OF PARTICIPA-**
13 **TION ELIGIBILITY FOR SELECTED STATES.**—

14 “(A) **IN GENERAL.**—Subject to subpara-
15 graph (B) and paragraph (4), a State selected
16 as an eligible State to participate in the dem-
17 onstration project on or prior to March 13,
18 2012, shall, upon the request of the State, be

1 permitted to continue to participate in the dem-
2 onstration project through September 30, 2016,
3 if—

4 “(i) the Secretary determines that the
5 continued participation of the State in the
6 demonstration project is projected not to
7 increase net program spending under title
8 XIX of the Social Security Act; and

9 “(ii) the Chief Actuary of the Centers
10 for Medicare & Medicaid Services certifies
11 that such extension for that State is pro-
12 jected not to increase net program spend-
13 ing under title XIX of the Social Security
14 Act.

15 “(B) NOTICE OF PROJECTIONS.—The Sec-
16 retary shall provide each State selected to par-
17 ticipate in the demonstration project on or prior
18 to March 13, 2012, with notice of the deter-
19 mination and certification made under subpara-
20 graph (A) for the State.

21 “(3) EXTENSION AND EXPANSION OF DEM-
22 ONSTRATION PROJECT.—

23 “(A) ADDITIONAL EXTENSION.—Taking
24 into account the recommendations submitted to
25 Congress under subsection (f)(3), the Secretary

1 may permit an eligible State participating in
2 the demonstration project as of the date such
3 recommendations are submitted to continue to
4 participate in the project through December 31,
5 2019, if, with respect to the State—

6 “(i) the Secretary determines that the
7 continued participation of the State in the
8 demonstration project is projected not to
9 increase net program spending under title
10 XIX of the Social Security Act; and

11 “(ii) the Chief Actuary of the Centers
12 for Medicare & Medicaid Services certifies
13 that the continued participation of the
14 State in the demonstration project is pro-
15 jected not to increase net program spend-
16 ing under title XIX of the Social Security
17 Act.

18 “(B) OPTION FOR EXPANSION TO ADDI-
19 TIONAL STATES.—Taking into account the rec-
20 ommendations submitted to Congress pursuant
21 to subsection (f)(3), the Secretary may expand
22 the number of eligible States participating in
23 the demonstration project through December
24 31, 2019, if, with respect to any new eligible
25 State—

1 “(i) the Secretary determines that the
2 participation of the State in the dem-
3 onstration project is projected not to in-
4 crease net program spending under title
5 XIX of the Social Security Act; and

6 “(ii) the Chief Actuary of the Centers
7 for Medicare & Medicaid Services certifies
8 that the participation of the State in the
9 demonstration project is projected not to
10 increase net program spending under title
11 XIX of the Social Security Act.

12 “(C) NOTICE OF PROJECTIONS.—The Sec-
13 retary shall provide each State participating in
14 the demonstration project as of the date the
15 Secretary submits recommendations to Con-
16 gress under subsection (f)(3), and any addi-
17 tional State that applies to be added to the
18 demonstration project, with notice of the deter-
19 mination and certification made for the State
20 under subparagraphs (A) and (B), respectively,
21 and the standards used to make such deter-
22 mination and certification—

23 “(i) in the case of a State partici-
24 pating in the demonstration project as of
25 the date the Secretary submits rec-

1 ommendations to Congress under sub-
2 section (f)(3), not later than August 31,
3 2016; and

4 “(ii) in the case of an additional State
5 that applies to be added to the demonstra-
6 tion project, prior to the State making a
7 final election to participate in the project.

8 “(4) AUTHORITY TO ENSURE BUDGET NEU-
9 TRALITY.—The Secretary annually shall review each
10 participating State’s demonstration project expendi-
11 tures to ensure compliance with the requirements of
12 paragraphs (2)(A)(i), (2)(A)(ii), (3)(A)(i), (3)(A)(ii),
13 (3)(B)(i), and (3)(B)(ii) (as applicable). If the Sec-
14 retary determines with respect to a State’s participa-
15 tion in the demonstration project that the State’s
16 net program spending under title XIX of the Social
17 Security Act has increased as a result of the State’s
18 participation in the project, the Secretary shall treat
19 the demonstration project excess expenditures of the
20 State as an overpayment under title XIX of the So-
21 cial Security Act.”.

22 (b) FUNDING.—Subsection (e) of section 2707 of
23 such Act (42 U.S.C. 1396a note) is amended—

24 (1) in the subsection heading, by striking “LIM-
25 ITATIONS ON FEDERAL”;

1 (2) in paragraph (2)—

2 (A) in the paragraph heading, by striking
3 “5-YEAR”; and

4 (B) by striking “through December 31,
5 2015” and inserting “until expended”;

6 (3) by striking paragraph (3);

7 (4) by redesignating paragraphs (4) and (5) as
8 paragraphs (3) and (4), respectively;

9 (5) in paragraph (3) (as so redesignated), by
10 striking “and the availability of funds” and inserting
11 “(other than States deemed to be eligible States
12 through the application of subsection (c)(4))”; and

13 (6) in paragraph (4) (as so redesignated)—

14 (A) in the first sentence—

15 (i) by inserting “(other than a State
16 deemed to be an eligible State through the
17 application of subsection (c)(4))” after “el-
18 igible State”; and

19 (ii) by striking “paragraph (4)” and
20 inserting “paragraph (3)”; and

21 (B) by inserting after the first sentence
22 the following: “In addition to any payments
23 made to an eligible State under the preceding
24 sentence, the Secretary shall, during any period
25 in effect under paragraph (2) or (3) of sub-

1 section (d), or during any period in which a law
2 described in subsection (f)(4)(C) is in effect,
3 pay each eligible State (including any State
4 deemed to be an eligible State through the ap-
5 plication of subsection (c)(4)), an amount each
6 quarter equal to the Federal medical assistance
7 percentage of expenditures in the quarter dur-
8 ing such period for medical assistance described
9 in subsection (a). Payments made to a State for
10 emergency psychiatric demonstration services
11 under this section during the extension period
12 shall be treated as medical assistance under the
13 State plan for purposes of section 1903(a)(1) of
14 the Social Security Act (42 U.S.C.
15 1396b(a)(1)).”.

16 (c) RECOMMENDATIONS TO CONGRESS.—Subsection
17 (f) of section 2707 of such Act (42 U.S.C. 1396a note)
18 is amended by adding at the end the following:

19 “(3) RECOMMENDATION TO CONGRESS REGARD-
20 ING EXTENSION AND EXPANSION OF PROJECT.—Not
21 later than September 30, 2016, the Secretary shall
22 submit to Congress and make available to the public
23 recommendations based on an evaluation of the dem-
24 onstration project, including the use of appropriate
25 quality measures, regarding—

1 “(A) whether the demonstration project
2 should be continued after September 30, 2016;
3 and

4 “(B) whether the demonstration project
5 should be expanded to additional States.

6 “(4) RECOMMENDATION TO CONGRESS REGARD-
7 ING PERMANENT EXTENSION AND NATIONWIDE EX-
8 PANSION.—

9 “(A) IN GENERAL.—Not later than April
10 1, 2019, the Secretary shall submit to Congress
11 and make available to the public recommenda-
12 tions based on an evaluation of the demonstra-
13 tion project, including the use of appropriate
14 quality measures, regarding—

15 “(i) whether the demonstration
16 project should be permanently continued
17 after December 31, 2019, in 1 or more
18 States; and

19 “(ii) whether the demonstration
20 project should be expanded (including on a
21 nationwide basis).

22 “(B) REQUIREMENTS.—Any recommenda-
23 tion submitted under subparagraph (A) to per-
24 manently continue the project in a State, or to
25 expand the project to 1 or more other States

1 (including on a nationwide basis) shall include
2 a certification from the Chief Actuary of the
3 Centers for Medicare & Medicaid Services that
4 permanently continuing the project in a par-
5 ticular State, or expanding the project to a par-
6 ticular State (or all States) is projected not to
7 increase net program spending under title XIX
8 of the Social Security Act.

9 “(C) CONGRESSIONAL APPROVAL RE-
10 QUIRED.—The Secretary shall not permanently
11 continue the demonstration project in any State
12 after December 31, 2019, or expand the dem-
13 onstration project to any additional State after
14 December 31, 2019, unless Congress enacts a
15 law approving either or both such actions and
16 the law includes provisions that—

17 “(i) ensure that each State’s partici-
18 pation in the project complies with budget
19 neutrality requirements; and

20 “(ii) require the Secretary to treat
21 any expenditures of a State participating
22 in the demonstration project that are ex-
23 cess of the expenditures projected under
24 the budget neutrality standard for the

1 State as an overpayment under title XIX
2 of the Social Security Act.

3 “(5) FUNDING.—Out of any funds in the
4 Treasury not otherwise appropriated, there is appro-
5 priated to the Centers for Medicare & Medicaid
6 Services Program Management Account to carry out
7 this subsection, \$100,000 for fiscal year 2015, to re-
8 main available until expended.”.

9 (d) CONFORMING AMENDMENTS.—Section 2707 of
10 such Act (42 U.S.C. 1396a note) is amended—

11 (1) in subsection (a), in the matter before para-
12 graph (1), by inserting “publicly or” after “institu-
13 tion for mental diseases that is”;

14 (2) in subsection (c)—

15 (A) in paragraph (1), by striking “An eli-
16 gible State” and inserting “Except as otherwise
17 provided in paragraph (4), an eligible State”;

18 (B) in paragraph (3), by striking “A State
19 shall” and inserting “Except as otherwise pro-
20 vided in paragraph (4), a State shall”; and

21 (C) by adding at the end the following:

22 “(4) NATIONWIDE AVAILABILITY.—In the event
23 that the Secretary makes a recommendation pursu-
24 ant to subsection (f)(4) that the demonstration
25 project be expanded on a national basis, any State

1 that has submitted or submits an application pursu-
2 ant to paragraph (2) shall be deemed to have been
3 selected to be an eligible State to participate in the
4 demonstration project.”; and

5 (3) in the heading for subsection (f), by striking
6 “AND REPORT” and inserting “, REPORT, AND REC-
7 OMMENDATIONS”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act.

